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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Case: ME 102

Applicant(s): Dr. Bernhard Blümich, ⁰⁷⁸
Serial No.: 10/026067 and SN 10/028,069
Filing Date: 12/18/01 and 02/19/02

In response to: decision dismissing request for refund.

Title: ARRANGEMENT FOR EXAMINING FLAT ARTICLES OF FIBER-REINFORCED
POLYMER MATERIALS

Hon. Commissioner of Patents and Trademarks
Washington, DC 20231
Box DAC

January 19, 2003

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Sir:

This is a request for reconsideration of the request dated 03/06/02, which was dismissed on Nov. 14, 02.

Reason: "The fact that applicant has filed duplicate or substantially duplicate applications does not entitle applicant to a refund of the filing fee". And: "A change of purpose after the payment of a fee such as when a party desires to withdraw a patent or trademark filing for which the fee was paid, including an application, an appeal or a request for an oral hearing, will not entitle a party to a refund of such a fee".

In the present case however special circumstances apply. First Applicant did not wish to file duplicate applications. This was forced on applicant by the circumstances: The application, which has received serial number 10/078,069 and received a filing date of Feb. 19, 2002, was mailed on October 27, 2001. This was certainly sufficient time to arrive at the Patent Of-

file in time before expiration of the priority date that is before 12/20/01. It was probably the decision of the Patent Office together with the US Postal Services to divert all the mail directed to zip code 20231 to Ohio for decontamination. It was certainly not what applicant wanted or had any influence on. But applicant was forced to file the application once more when on Dec. 18, 2001, that is two days before expiration of the priority period, the application had not yet been received by the Patent Office. Applicant could not risk losing the priority. The earlier application, which was finally received by the Patent Office on Feb. 19, 2002 - after decontamination and long after expiration of the priority period - (SN 10/078,069), was therefore moot and senseless. And this did not occur because of any of Applicant's fault. It would therefore be fair to return the filing fee of \$ 370.--. It would also make sense to withdraw SN 10/078,069 from prosecution to save the time of an Examiner handling that case, since SN 10/026,067 filed on Dec. 18, 2001 because the earlier mailed documents seemed to be lost, is identical.

Reconsideration of the DECISION DISMISSING REQUEST FOR REFUND of Nov. 04, 2002 is respectfully requested. A copy of the decision is enclosed.

Respectfully submitted,



Klaus J. Bach, Reg. No. 26832